

UNITED STATES DISTRICT COURT

for the  
District of Arizona

9-28-17  
DOW  
United States of America  
v.  
Cristobal Hernandez-Valerio,  
A088 747 591  
Defendant

Case No. 17-436 MJ

CRIMINAL COMPLAINT

I, the complainant in this case, state that the following is true to the best of my knowledge and belief.

On or about the date of September 28, 2017, in the County of Pinal, in the District of Arizona, the defendant violated Title 8, U.S.C. § 1326(a), a felony, and Title 8, U.S.C. § 1325(a)(2), a class B misdemeanor, an offense described as follows:

See Attachment A Incorporated By Reference Herein

I further state that I am a Border Patrol Agent with U.S. Customs and Border Protection.

This criminal complaint is based on these facts:

See Attached Statement of Probable Cause Incorporated By Reference Herein

REVIEWED BY: AUSA Jacqueline Schesnol for SAUSA Brett A. Day

☒ Continued on the attached sheet.



Complainant's signature  
Sheldon W. Schmitt  
U.S. Border Patrol Agent  
Printed name and title

Sworn to before me and signed in my presence.

Date: September 29, 2017



Judge's signature

City and state: Phoenix, Arizona

Michelle H. Burns  
United States Magistrate Judge  
Printed name and title

**ATTACHMENT A**

**Count 1**

On or about September 28, 2017, Cristobal Hernandez-Valerio, an alien, was found in the United States of America at or near Casa Grande, in the District of Arizona, after having been previously denied admission, excluded, deported, and removed from the United States at or near Nogales, Arizona, on or about November 12, 2010, and not having obtained the express consent of the Secretary of the Department of Homeland Security to reapply for admission thereto; in violation of Title 8, United States Code, Section 1326(a), a felony.

**Count 2**

On or about September 28, 2017, at or near Casa Grande, in the District of Arizona, Cristobal Hernandez-Valerio, an alien, did elude the examination or inspection by immigration officers in violation of Title 8, United States Code, Section 1325(a)(2), a class B misdemeanor.

**STATEMENT OF PROBABLE CAUSE**

I, Sheldon W. Schmitt, being duly sworn, hereby depose and state as follows:

1. Your affiant is a United States Border Patrol agent. I have learned from direct participation in the investigation and from the reports and communications of other agents and officers the facts recited herein.
2. On September 28, 2017, Border Patrol Agent S. McKenzie encountered an individual near Casa Grande, in the District of Arizona. The agent identified himself as a Border Patrol agent and performed an immigration inspection on the individual. The individual, later identified as Cristobal Hernandez-Valerio, admitted to being a citizen and national of a country other than the United States, unlawfully present in the United States. Hernandez-Valerio was transported to the Casa Grande Border Patrol Station for further processing. Hernandez-Valerio was held in administrative custody until his identity could be confirmed along with his immigration history.
3. Immigration history checks revealed Cristobal Hernandez-Valerio to be a citizen of Mexico and a previously deported alien. Hernandez-Valerio was removed from the United States to Mexico through Nogales, Arizona, on or about November 12, 2010, pursuant to a removal order issued by an immigration official. There is no record of

Cristobal Hernandez-Valerio in any Department of Homeland Security database to suggest that he obtained permission from the Secretary of the Department of Homeland Security to return to the United States after his removal.

4. Furthermore, there is no record of Cristobal Hernandez-Valerio in any Department of Homeland Security database to suggest that after his last removal from the United States he entered the United States at an official Port of Entry. Had Hernandez-Valerio presented himself at a Port of Entry, Department of Homeland Security records likely would reveal that information. Accordingly, your affiant believes that Cristobal Hernandez-Valerio entered the United States at a location not designated as an official Port of Entry, and thereby eluded examination and inspection by Immigration Officers of the United States. Hernandez-Valerio's immigration history was matched to him by electronic fingerprint comparison.
5. On September 29, 2017, Cristobal Hernandez-Valerio was advised of his constitutional rights. Hernandez-Valerio freely and willingly acknowledged his rights and declined to provide a statement under oath.
6. For these reasons, this affiant submits that there is probable cause to believe that on or about September 28, 2017, Cristobal Hernandez-Valerio, an alien, was found in the United States of America at or near Casa Grande, in the District of Arizona, after

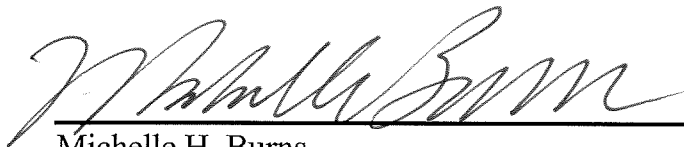
having been previously denied admission, excluded, deported, and removed from the United States at or near Nogales, Arizona, on or about November 12, 2010, and not having obtained the express consent of the Secretary of the Department of Homeland Security to reapply for admission thereto; in violation of Title 8, United States Code, Section 1326(a) and on or about September 28, 2017, at or near Casa Grande, in the District of Arizona, Cristobal Hernandez-Valerio did elude the examination or inspection by immigration officers in violation of Title 8, United States Code, Section 1325(a)(2).



---

Sheldon W. Schmitt  
U.S. Border Patrol Agent

Sworn to and subscribed before me  
this 29<sup>th</sup> day of September, 2017.



---

Michelle H. Burns  
United States Magistrate Judge